

REMARKS/ARGUMENTS

The present communication is responsive to the official Action mailed June 1, 2005, finally rejecting all the claims pending in the application, namely claims 20-40. Of the pending claims, claims 22 and 34 are independent. All the remaining claims depend from one of the independent claims.

Claim 22 has been amended to now recite "setting, at the credit company server, an interest rate based on the item being purchased." Support for the amendment to claim 22 may be found by reference to, for example, page 14, lines 13 to 16 of the specification.

Claim 30 has been amended to now recite "wherein the setting step further includes associating an interest rate with the credit contract based on the identity of the user." Support for the amendments to claim 30 may be found by reference to, for example, page 21, line 18 to page 22, line 8 of the specification.

Claim 34 has been amended to recite "setting, at a credit company server, a first interest rate based on the type of good being purchased; and requesting, by the server, that a user associated with the user terminal agree to the credit payment method including the payment options and the first interest rate." Support for the amendments to claim 34 may be found by reference to, for example, page 14, line 13 to page 15 line 8.

Claim 35 has been amended to improve its form.

Claim 36 has been amended to recite "determining, at the credit company server, a second interest rate associated with the good being purchased based on the information associated with the user and requesting that the user agree to the second interest rate as part of agreeing to the credit payment method." Support for the amendments to claim 36 may be

found by reference to, for example, page 14, lines 10 to 16.

Claim 37 has been cancelled.

Applicants respectfully submit that the amendments to the claims do not constitute the addition of a new matter.

In the Official Action, the Examiner rejected claims 22-40 under 35 U.S.C. §102(e) as we anticipated by U. S. Publication 2005/0102188 to Hutchinson et al. ("*Hutchinson*"). *Hutchinson* was filed on September 16, 2003. It is a continuation-in-part of U. S. Patent Application 09/370,949, filed on August 9, 1999 ("the '949 application"). *Hutchinson* also claims priority to Provisional Application 60/140,039, filed on June 18, 1999 ("the provisional application"). The present application claims priority to a Japanese application filed on September 1, 1999. Therefore, in order for *Hutchinson* to qualify as relevant prior art under §102(e), the subject matter in *Hutchinson* on which the Examiner relies must have been included in either the '949 or provisional application.

In that regard, in the Office Action the Examiner lists the provisional application among the references cite. The Examiner did not, however, support her rejection of the claims by specifically pointing which portions of the provisional application disclosed the claimed invention. Instead, the Examiner relied on the published application, i.e., *Hutchinson*, to support her rejection. Thus, although the Examiner did not meet her burden of establishing a prima facie case of anticipation, in an effort to advance prosecution, applicants further respond to the Official Action as set forth below.

In rejecting claim 36, the Examiner asserts that paragraphs [0071] and [0115] of *Hutchinson* disclose "determining, at the credit company server, an interest rate associated with the good being purchased based on the type of good being purchased." (Official Action at 4.) Although

paragraph [0071] discloses the use of identity and credit information to determine a credit score, it does not disclose or suggest determining an interest rate based on the type of good being purchased. Furthermore, although paragraph [0115] discusses "calculating interest" there is no suggestion that the interest rate can be calculated based on the type of good being purchased. Nowhere in *Hutchinson* is it disclosed to calculate interest based on the type of good being purchased. More importantly, neither the '949 application nor the provisional application disclose or suggest setting an interest rate based on the item or good being purchased, as is now recited in claims 22 or 34.

Applicants therefore respectfully submit that *Hutchinson* does not disclose or suggest "setting, at the credit company server, an interest rate based on the item being purchased," as is now recited in claim 22. Applicants also respectfully submit that *Hutchinson* does not disclose or suggest "setting, at a credit card company server, a first interest rate based on the type of good being purchased," as is now recited in claim 34.

Therefore, applicants respectfully submit that for at least the foregoing reasons, *Hutchinson* does not anticipate or render obvious claims 22 or 34. In addition, as all the other claims pending in the application depend from either claim 22 or 34, applicants respectfully submit that these claims are also not anticipated or rendered obvious by *Hutchinson*.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding final rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully

requested that she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 31, 2005

Respectfully submitted,

By

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